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MEMORANDUM

TO: Agency Heads and Human Resources Directors of All Agencies, Departments, Institutions, and Commissions

FROM: Samuel L. Wilkins
Director

DATE: July 2, 2004

SUBJECT: 2004 Legislative Update

The following is a summary of human resources related legislation enacted by the South Carolina General Assembly during the 2004 legislative session. Please consult the full text of the legislation for complete details by referring to the General Assembly web site at <http://www.scstatehouse.net/> or the Office of Human Resources web site at <http://www.state.sc.us/ohr/hrlaws/laws.htm>.

The following bills have been ratified and signed by the Governor.

New Employment At-Will Act (A185, R214, H3448) (SC Code of Laws § 41-1-110)

To affirm the at-will nature of employment relationships in South Carolina, this law seeks to ensure that your handbook, personnel manual, policies, procedures, and other documents issued after June 30, 2004, do not create an express or implied contract of employment between the employer and the employee if a disclaimer is “conspicuously” displayed on the document. The law also gives instructions on the type of disclaimer required and the way it should be displayed on documents. This bill was signed into law on March 15, 2004. A memo regarding the Employment At-Will Act was distributed by the Office of Human Resources to agencies on April 15, 2004.

SC Life Sciences Act (A187, R212, S560)

Institutions of higher learning may spend federal and other non-state appropriated sources of revenue to provide lump-sum bonuses at levels outlined in a plan approved by the governing body of the respective public institution of higher learning and according to guidelines established in the plan. Institutions of higher learning may establish research grant positions funded by federal grants, public charity grants, private foundation grants, research grants,

medical school practice plans, individual private gifts, externally generated revenue for service or testing activities, and grant generated revenue. This bill was signed into law on March 17, 2004.

The following bills have been ratified by the General Assembly, but have not been signed by the Governor.

Leave and Holiday (R385, S16) (SC Code of Laws § 8-11-177, § 53-5-20, and § 8-11-40)

This bill codifies State Human Resources Regulation 19-712.01 G.1. and provides State employees with three days of paid leave upon the death of an immediate family member. Immediate family is redefined to include the spouse of brothers, spouse of sisters, and spouse of children. In addition, the employing agency may require the employee to submit a statement stating the name and relationship of the deceased.

The bill also authorizes the Governor to declare Thursday, December 23, 2004, as the Christmas Eve holiday for State employees. The 2005 New Year's Day State holiday which falls on a Saturday and would otherwise be observed on Friday, December 31, 2004, must instead be observed on Monday, January 3, 2005.

Included in the bill are amendments to § 8-11-40 of the SC Code of Laws relating to State employee sick leave, so as to codify and increase the number of sick leave days from 8 to 10 days that employees may use to care for ill members of their immediate family. Finally, the bill amends the circumstances for which administrative leave for State employees can be taken. State employees in FTE positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of the attack must be placed on administrative leave with pay by their employers rather than sick leave.

Military Leave (R439, H5333)

This bill provides an additional 30 days of military leave in subsequent years for a State employee called to active duty as a result of "Operation Enduring Freedom" or "Operation Noble Eagle" or in connection with hostilities in Iraq. If the emergency continues into a subsequent year, the employee may receive up to 30 additional days of paid leave of absence in each subsequent year associated with the same emergency. A year refers to a calendar year or the fiscal year of the National Guard or reserve component issuing the orders.

The following provisos under the Annual Appropriations Act (A248, R333, H4925) are new for Fiscal Year 2004-2005.

Proviso 63.43 (Military Service Leave)

For Fiscal Year 2004-2005, this proviso allows a State employee who is in an FTE position, serves on active duty in a combat zone, and has exhausted all leave for military purposes in any one year to receive up to 30 additional days of military leave in any one year. A year refers to a calendar year or the fiscal year of the National Guard or reserve component issuing the orders.

Proviso 72.88 (SC Enterprise Information System)

This proviso implements a statewide information system for agencies, with the exception of lump-sum agencies, desiring new purchasing, financial, human resources, payroll, or budgeting systems. The South Carolina Enterprise Information System Oversight Committee will provide

oversight for the implementation and continued operations of the system. Agencies desiring to implement an alternate system must first obtain the approval from the Budget and Control Board's Division of the State CIO and the Comptroller General. These agencies will be assessed a one-time charge payable to the Budget and Control Board to develop interfaces to the statewide system superintended by the Comptroller General.

Proviso 63.45 (Law Enforcement Personnel Salary Review)

Office of Human Resources is directed to conduct a review of law enforcement personnel salaries as compared to other Southeastern states. This study will be completed by January 3, 2005.

Proviso 63.46 (Employee Compensation)

Classified and unclassified employees, as well as employees under the unclassified executive compensation system and agency heads not covered by the Agency Head Salary Commission, will receive a 3% compensation increase effective on the first pay date that occurs on or after July 1 of the current fiscal year.

Agency heads covered by the Agency Head Salary Commission, upon approval of the Budget and Control Board, may receive salary increases to be effective on the first pay date that occurs on or after January 1 of the current fiscal year. No agency head shall be paid less than the minimum of the pay increase range nor receive a salary increase that would have the effect of raising the salary above the maximum of the pay range.

72.86 (Organizational Charts)

All State agencies, departments, and institutions must furnish to the Office of Human Resources 1) a current personnel organizational chart annually no later than September 1 of the current fiscal year, or upon OHR's request; 2) notification of any change to the agency's organizational structure which impacts an employee's grievance rights within 30 days of the change. The organizational charts must show all authorized positions, class title, class code, class slot and whether the position is filled or vacant. The organizational charts must also show those employees exempt from the State Employee Grievance Procedure Act.

Proviso 72.91 (Agency Administrative Support Collaboration)

State agencies are encouraged to actively pursue cost savings measures through collaborative efforts and, where feasible, combine administrative support functions with other agencies in order to maximize efficiency and effectiveness.

The following provisos under the Annual Appropriations Act (A248, R333, H4925) have been changed for Fiscal Year 2004-2005.

Proviso 63.17 (Vacant Positions)

If an agency has permanent positions that remain vacant for more than 12 months, the Budget and Control Board may delete these positions. The proviso no longer gives authorization to the Budget and Control Board to suspend the requirement of deleting these 12-month vacant positions.

Proviso 72.30 (Carry Forward)

The proviso was amended to delete the sentence that states: “In addition, any remaining appropriation reduction account balances shall be returned to State agencies and carried forward into the current fiscal year in the event the total appropriation reduction amount exceeds the amount needed to avoid a general fund deficit in the prior fiscal year.”

Proviso 72.63 (Best Management Practices)

This proviso requires agencies to report on their website a self-assessment of the agency’s use of best practices during the prior fiscal year. Agencies are encouraged to partner with other agencies for a peer review process. For each of the best practices, the agency must publicly rate itself as in compliance, in progress, or in non-compliance. State institutions of higher education are exempt from this requirement. The proviso adds a phrase that states: “Using a format similar to the Department of Transportation’s best management practices report...”. The Department of Transportation’s Best Management Practices Report is located at the following web site: <http://www.dot.state.sc.us/inside/bestpractices.html> .

Proviso 72.65 (Personnel Administration Exemption)

This proviso exempts employees in specific agencies from the provisions of the State Employee Grievance Procedure Act. All employees in constitutional offices who report directly to the agency head or report directly to a person who reports to the agency head will no longer have grievance rights, as well as, all management employees in specific agencies (a list is provided in the proviso). The Department of Motor Vehicles was included in the list of agencies with employees who are exempt from coverage.

The following provisos under the Annual Appropriation Act (A248, R333, H4925) have not been changed for Fiscal Year 2004-2005.

63.13	Compensation-Agency Head Salary
63.14	Compensation-Reporting of Supplemental Salaries
63.15	Mid-Year Budget Reductions & Restricting the Rate of Expenditures
63.16	Compensation Increase – Appropriated Funds Ratio
63.18	Higher Education Salary Limit Exemption
63.24	Mandatory Furlough
63.32	Adoption Assistance Program
63.33	Family Sick Leave
63.38	Military Service
72.16	Discrimination Policy
72.17	Residency Preference
72.18	Personal Service Reconciliation, FTEs
72.19	Allowance for Residences & Compensation Restrictions
72.21	Universities & Colleges – Allowance for Presidents
72.26	Travel-Subsistence Expenses & Mileage
72.46	Voluntary Separation Incentive Program
72.49	Voluntary Furlough
72.53	Forego Salary Increase
72.56	Across-the-Board Reductions
72.73	Constitutional Officer Furlough

If you have any questions or need additional information regarding any of these provisos or statutes, please contact your Human Resources Consultant at 803-737-0900.

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